

REMARKS

Responsive to the Notice of Non-Compliant Amendment mailed on October 5, 2004, applicants submit herewith a complete listing of claims, which now include the text of withdrawn claims 1-57. For completeness in the record, the remarks sent along with applicant's response of September 20, 2004 are represented below.

REMARKS (from response dated Sept. 20, 2004)

Responsive to the Office Action dated May 19, 2004, it is noted that the previous Restriction Requirement has been made final and that claims 1-57 are withdrawn from consideration. Applicants reserve the right to file a divisional application.

As will be discussed hereinafter, the claims have been amended so as to obviate the claim issues noted by the Examiner. With respect to the substantive rejections, it is believed that the claims are patentable over the cited prior art and reconsideration is earnestly solicited.

Claim Rejections – 35 U.S.C. § 112

Claims 60-67, 69, 81-88, 90, 99-106 and 108 stand rejected under the second paragraph of 35 U.S.C. § 112. Specifically, the Examiner notes that claims 60, 81 and 99 recite a "second" flexible occlusion member, and that there is no disclosure of such a second flexible occlusion member. In this regard, claims 60, 81 and 99 have been canceled. In addition, all of the claims have been reviewed (and where necessary amended) to insure that no reference remains as to the inclusion of a "second" flexible occlusion member. The support for the amendments to these claims is set forth in the specification at page 18, line 11 – page 19, line 12, describing the sequential illustration of the attachment of the slider onto the fastening strips and at page 15, lines 5-14 describing the flexible occlusion member 210 itself.

Secondly, the Examiner has noted that claims 64, 85 and 103 recite that the flexible occlusion member 210 has a second position wherein that member is not engaged with the fastening strip; however, the specification (Figs. 14-16 and page 18, lines 15 *et seq.*) states that the flexible member is always in contact/engaged with the strips (130, 131). As can be seen from the description of Figs. 14-18 starting at page 18, line 11 of the specification, the flexible occlusion member has a first position which is shown in Fig. 14. Then, as shown in Figs. 15 and 16, the flexible occlusion member deflects when the slider 132 is attached onto the fastening strips 130, 131. The claims have been correspondingly amended to reflect this situation.

Accordingly, it is believed that the presently pending claims, as amended, obviate the rejection under the second paragraph of 35 U.S.C. § 112.

Claim Rejections – 35 U.S.C. § 102

Claims 58, 59, 68, 79, 80, 89, 97, 98 and 107 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. 5,301,394 to Richardson et al. In applying the Richardson et al. patent, the Examiner notes, regarding claims 58, 79 and 97, that Richardson et al. include a first flexible occlusion member (21b, 22b) for facilitating the occlusion of the fastening strips when the slider is moved toward an end of the fastening strips (noting Figs. 1-4 and the specification at Col. 3, ll. 27 et seq.). This rejection is respectfully traversed.

The reclosable fastener disclosed in the Richardson et al. '394 patent describes elements 21b and 22b as being “detent elements” which are located on opposite sides of the separator finger 9 and which are spring-loaded toward that separator finger. (See Col. 4, ll. 28-31) In the fully closed position (as shown in Figs. 1 and 2) the detent elements, 21b, 22b, spring inward against the sides of the separator finger 9 and are said to resist any attempt to move the slider 10 into the bag-opening direction because that would require that these elements be forced back over the flanges 18, 19 of the zipper. When the slider 10 is at any location other than the fully closed position, the spring-loaded detent elements 21b, 22b, ride against the outside surfaces of the flanges 18 and 19 respectively (as shown in Figs. 3 and 4). (See Col. 4, ll. 28-44). At any such location, the part of the flanges 18, 19 that are in contact with the detents are separated, one from the other.

Accordingly, these detent members of Richardson et al. do not function as a flexible occlusion member “for facilitating occlusion of said fastening strips” when the slider is moved to “said first end of said fastening strips” (i.e. – when the fastening strips are being occluded) as in the present invention. To reiterate, in the fully closed position (Figs. 1 and 2 in the Richardson et al. patent), there is no contact whatsoever between the detents 21b, 22b and the flanges of the reclosable fastener of the plastic bag or the like. In this position, there is accordingly no “facilitating” action whatsoever. The bag has been closed, and the detent elements function as such, viz. – preventing deocclusion after occlusion has been effected. Further, when the separator finger 9 is moved to a position where the flanges of the bag are being deoccluded, the detents 21b, 22b, allow the flanges of the bag to pass as the slider 10 is moved to a partially open or deoccluded position. When the slider 10 is left at such a position, then the detents may serve to prevent the bag from being opened further until the slider is moved further. However, again, there is no

action that facilitates occlusion as in the present claims. As previously noted, the detents engage areas of the flange that are separated, and thus deoccluded.

Accordingly, for the reasons set forth herein, it is submitted that the subject claims are not anticipated by the Richardson et al. patent.

Claim Rejections – 35 U.S.C. § 103

Claims 70-78, 91-96 and 109-107 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the Richardson et al. '394 patent. With respect to claims 70-75, 91-96 and 109-114, the Examiner states that the flexible occlusion member and biased leg configuration (21b, 22b) is fully capable of adjusting to any given width of fastening strip due to the spring loaded action. As to claims 76-78 and 115-117, the Examiner states that Richardson et al. disclosed the claimed invention except for the particular type of fastening strip claimed. However, the Examiner concludes that it would have been an obvious matter of design choice to employ any type of fastening strips since the present applicant has not disclosed that such fastening strip types solved any stated problem, or the like. This rejection is respectively traversed.

For the reasons set forth regarding the rejection under Section 102, the rejected claims are patentable under Section 103. The prior comments are incorporated herein. In summary, the present invention comprises a closure device in which a slider is utilized which includes a flexible occlusion member for facilitating occlusion of the fastening strips in the device when the slider is moved in the direction to occlude the strips. In marked contrast, the detent elements in the Richardson et al. device do not function as a flexible occlusion member as claimed, nor would the inclusion of such a member be obvious to one of ordinary skill in the art. The detents 21b, 22b only contact the flanges 18, 19 of the strips 14, 15 of the bag at a point at which the flanges are clearly separated as is shown in Figs. 3 and 4. Altering the design of the Richardson et al. slider to provide the claimed closure device would totally emasculate the Richardson et al. objectives and could be accomplished only through the improper use of hindsight.

Conclusion

The application is considered in good and proper form for allowance, and the Examiner is respectfully requested to pass this application to issue. If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned attorney.

Respectfully submitted,



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